HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Miscellaneous Petition No.15/2007

PETITIONERS

1. Paluram, son of late Raghunandan Patel, aged about 55 years, caste Agharia,
2. Netram Patel, son of Late Raghunandan Patel, caste Agharia, aged about 50 years,
3. Devcharan, son of Haricharan Patel, aged about 50 years, caste Aghariya.

All are agriculturist, resident of village Kerajhar, P.S. Bhupdeopur, Tahsil and District – Raigarh (C.G.)

Versus

RESPONDENTS

1. Dharmendra Kumar, son of Shri Teekaram Patel, aged about 32 years, occupation agriculturist.
2. Teekaram, son of Niranjan Lal Patel, Caste Aghariya, occupation agriculturist, aged about 56 years.

Both residents of Kerajhar, Tah. & District – Raigarh (C.G.).

3. State of Chhattisgarh, through – District Magistrate, Raigarh (C.G.)
4. The Sub Divisional Officer (Revenue), Raigarh, Tah. and Distt. Raigarh (C.G.)

(PETITION UNDER SECTION 482 OF Cr.P.C.)

Appearance:

Shri Roop Naik, Counsel for the petitioners.

Shri G.K. Beriwal, Dy. Advocate General for the State.

ORAL ORDER
(25.04.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

This petition is directed against the order dated 30.11.2006 (Annexure A-1) passed in Criminal Revision No.166/2006 by the Third Additional Sessions Judge (FTC), Raigarh. The aforesaid revision was filed against the orders dated 26/10/2006 and 27/10/2006 passed by

the Sub Divisional Magistrate, Raigarh under Sections 145 (1) and 146 of the Code of Criminal Procedure.

It appears that on an *Istgasa* filed by the Police under Section 145 of Cr.P.C., the learned Magistrate took cognizance in the matter and passed a preliminarily order under Section 145(1)of Cr.P.C. and thereafter, he also passed an order of attachment under Section 146 of Cr.P.C. Both these orders were challenged in revision, but the Revisional Court said that the cognizance taken by the Magistrate was in accordance with law.

Learned counsel for the petitioners submits that in fact, a Civil Suit is already pending in relation to the same property and cognizance under Section 145 of Cr.P.C. was a redundant action, which should not have been taken by the Magistrate. However, he prays for withdrawal of the petition with a liberty to raise the ground of pendency of civil litigation before the concerned Court and to pray for dismissal of the proceeding on the said ground.

The prayer is allowed.

This petition is dismissed, as withdrawn, with a liberty to the applicants to take the ground of pendency of Civil Suit, if the same is pending, before the appropriate forum in accordance with law.

Sd/-
Sunil Kumar Sinha
Judge